

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

FILED BY S D.C.
05 SEP 13 AM 8:45
JENNIFER W. WOOD
CLERK, U.S. DISTRICT COURT
W.D. OF TENN. JACKSON

JANICE A. HAMILTON,
Plaintiff

vs.

JO ANNE B. BARNHART,
COMMISSIONER OF
SOCIAL SECURITY,

Defendant

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) Civil Action No.05-1037-T
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FINAL JUDGMENT REVERSING COMMISSIONER AND
ORDERING REMAND UNDER SENTENCE FOUR OF 42 U.S.C. § 405 (g)

After reviewing the above-captioned case, agency counsel requested that the Appeals Council undertake further review of this case, which it agreed to do. Accordingly, the parties jointly propose that this case be reversed and remanded pursuant to sentence four of 42 U.S.C. § 405(g) for further consideration and a new hearing.

IT IS THEREFORE ORDERED that the Commissioner's decision is reversed and the matter remanded under sentence four of 42 U.S.C. § 405(g) for further development. Upon remand, the Appeals Council will instruct the administrative law judge ("ALJ") to conduct a new hearing and issue a new decision, wherein he will properly evaluate Plaintiff's ability to return to her past relevant work. In finding that Plaintiff could return to her past relevant work as an office clerk, the ALJ relied on testimony from a vocational expert that did not include limitations found credible by the ALJ in the body of his decision, namely, that mentally, Plaintiff was only capable of meeting the basic demands of unskilled work. Also, the vocational expert described Plaintiff's past job as an office clerk as semi-skilled, but as mentioned previously, he found that Plaintiff was only capable of unskilled work. Thus, upon remand, the ALJ must further develop the record regarding Plaintiff's ability to perform her past relevant work.

Also, upon remand, in accordance with this court's October 7, 2003 remand order, and pursuant to 20 C.F.R. §§ 404.1594 and 416.994, the ALJ will be directed to evaluate whether Plaintiff's condition has improved since the most recent favorable decision, and if necessary, obtain vocational expert testimony. In a prior ALJ decision dated August 18, 2000, the ALJ issued a partially favorable decision finding that Plaintiff was disabled from January 17, 1999 to January 17, 2000 (Tr. 297, 303). In this court's remand order, the ALJ was specifically ordered to re-evaluate the cessation of Plaintiff's mental impairment under the requirements of 20 C.F.R. § 404.1594 and 416.994 (Tr. 305). Because the ALJ failed to follow the prior court order and agency regulations in evaluating Plaintiff's claim, this case is hereby reversed and remanded.

Finally, upon remand, the Appeals Council has agreed to assign this case to a different ALJ.

Upon remand, the Commissioner shall take action consistent with the foregoing.

SO ORDERED.

13 September 2005

Date

James D. Todd

James D. Todd

United States District Court Judge

APPROVED BY:

Roger Stanfield

Roger Stanfield

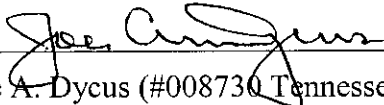
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Honorable James Todd
US DISTRICT COURT